

SECOND REGULAR SESSION

SENATE BILL NO. 735

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3197S.011

AN ACT

To repeal sections 287.480, 288.240, 537.690, and 595.036, RSMo, and to enact in lieu thereof four new sections relating to applications for review or appeal filed with the labor and industrial relations commission.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 287.480, 288.240, 537.690, and 595.036, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 287.480, 288.240, 537.690, and 595.036, to read as follows:

287.480. 1. If an application for review is made to the commission within
2 twenty days from the date of the award, the full commission, if the first hearing
3 was not held before the full commission, shall review the evidence, or, if
4 considered advisable, as soon as practicable hear the parties at issue, their
5 representatives and witnesses and shall make an award and file it in like manner
6 as specified in section 287.470. Any notice of appeal, application or other paper
7 required under this law to be filed with the division or the commission shall,
8 when mailed to or transmitted by electronic facsimile meeting the requirements
9 of the division and received by the division or the commission, be deemed to be
10 filed as of the date [endorsed] **postmarked** by the United States post office **or**
11 **any private dispatching service** on the envelope or container in which such
12 paper is received, or the date received if filed by facsimile. In instances where
13 the last day for the filing of any such paper falls on a **Saturday**, Sunday, or legal
14 holiday, the filing shall be deemed timely if accomplished on the next day
15 subsequent which is neither a **Saturday**, Sunday [or], **nor** a legal
16 holiday. When filing by electronic facsimile meeting the requirements of the
17 division, the parties shall, on the same date as the facsimile transmission, mail

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 [by the United States mail] the original and the requisite number of copies to the
19 commission.

20 2. An employer who has been determined by the division to be an
21 employer subject to and operating pursuant to this chapter and has also been
22 determined to be uninsured may file an application for review but such
23 application for review shall be accompanied with and attached to the application
24 for review a bond which shall be conditioned for the satisfaction of the award in
25 full, and if for any reason the appeal is dismissed or if the award is affirmed or
26 modified, to satisfy in full such modification of the award as the commission may
27 award. The surety on such bond shall be a bank, savings and loan institution or
28 an insurance company licensed to do business in the state of Missouri. No appeal
29 to the commission shall be considered filed unless accompanied by such bond and
30 such bond shall also be a prerequisite for appeal as provided in section 287.495
31 and such appeal pursuant to section 287.495 shall not be considered filed unless
32 accompanied by such bond. If any other employer pursuant to section 287.040
33 would be liable, the employee shall be paid benefits from the bond until the bond
34 is exhausted before the section 287.040 employer is required to pay.

 288.240. Any notice of appeal, application or other paper required under
2 this law to be filed with the division or the commission shall, when mailed to or
3 **transmitted by electronic facsimile meeting the requirements of the**
4 **division or commission** and received by the division or the commission, be
5 deemed to be filed as of the date [endorsed] **postmarked** by the United States
6 post office **or any private dispatching service** on the envelope or container
7 in which such paper is received, **or the date received if by facsimile**. In
8 instances where the last day for the filing of any such paper falls on a Saturday,
9 Sunday, or legal holiday, the filing shall be deemed timely if accomplished on the
10 next day which is neither a Saturday, Sunday, nor a legal holiday. **When filing**
11 **by electronic facsimile meeting the requirements of the division or**
12 **commission, the parties shall, on the same date as the facsimile**
13 **transmission, mail the original and the requisite number of copies to**
14 **the commission.**

 537.690. 1. Any of the parties to a decision of the division on a claim
2 heard under the provisions of sections 537.675 to 537.693 may, within thirty days
3 following the date of notification or mailing of such decision, file a petition with
4 the labor and industrial relations commission to have the decision reviewed by
5 the commission. The commission may allow or deny a petition for review. If a

6 petition is allowed, the commission may affirm, reverse or set aside the decision
7 of the division on the basis of the evidence previously submitted in such case or
8 may take additional evidence or may remand the matter to the division with
9 directions. The commission shall promptly notify the parties of its decision and
10 the reasons therefor.

11 2. Any petition for review filed pursuant to subsection 1 of this section
12 shall, **when mailed to or transmitted by electronic facsimile meeting the**
13 **requirements of the division or commission and received by the**
14 **commission**, be deemed to be filed as of the date [endorsed] **postmarked** by the
15 United States Postal Service **or any private dispatching service** on the
16 envelope or container in which such petition is received, **or the date received**
17 **if filed by facsimile. In instances where the last day for the filing of**
18 **such paper falls on a Saturday, Sunday, or legal holiday, the filing shall**
19 **be deemed timely if accomplished on the next day subsequent which is**
20 **neither a Saturday, Sunday, nor legal holiday. When filing by**
21 **electronic facsimile meeting the requirements of the division or**
22 **commission, the parties shall, on the same date as the facsimile**
23 **transmission, mail the original and the requisite number of copies to**
24 **the commission.**

25 3. Any party who is aggrieved by a final decision of the commission
26 entered pursuant to the provisions of subsections 1 and 2 of this section may seek
27 judicial review thereof by appealing, within twenty days of a final decision to the
28 appellate court having jurisdiction in the area where the appellant resides. In
29 such proceedings the attorney general, on behalf of the tort victims' compensation
30 fund, shall defend the decision of the commission. The commission shall not be
31 a party in such actions.

595.036. 1. Any of the parties to a decision of the division of workers'
2 compensation on a claim heard under the provisions of sections 595.010 to
3 595.070 may, within thirty days following the date of notification or mailing of
4 such decision, file a petition with the labor and industrial relations commission
5 to have such decision reviewed by the commission. The commission may allow or
6 deny a petition for review. If a petition is allowed, the commission may affirm,
7 reverse, or set aside the decision of the division of workers' compensation on the
8 basis of the evidence previously submitted in such case or may take additional
9 evidence or may remand the matter to the division of workers' compensation with
10 directions. The commission shall promptly notify the parties of its decision and

11 the reasons therefor.

12 2. Any petition for review filed pursuant to subsection 1 of this section
13 shall, **when mailed to or transmitted by electronic facsimile meeting the**
14 **requirements of the division or commission and received by the**
15 **commission**, be deemed to be filed as of the date [endorsed] **postmarked** by the
16 United States Postal Service **or any private dispatching service** on the
17 envelope or container in which such petition is received, **or the date received**
18 **if filed by facsimile. In instances where the last day for the filing of**
19 **any such paper falls on a Saturday, Sunday, or legal holiday, the filing**
20 **shall be deemed timely if accomplished on the next day subsequent**
21 **which is neither a Saturday, Sunday, nor a legal holiday. When filing**
22 **by electronic facsimile meeting the requirements of the division or**
23 **commission, the parties shall, on the same date as the facsimile**
24 **transmission, mail the original and the requisite number of copies to**
25 **the commission.**

26 3. Any party who is aggrieved by a final decision of the labor and
27 industrial relations commission pursuant to the provisions of subsections 1 and
28 2 of this section may seek judicial review thereof, as provided in sections 536.100
29 to 536.140, RSMo.

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